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SNELL & WILMER LLP (OC) 600 ANTON BOULEVARD SUITE 1400 COSTA MESA, CA 92626			CASCHERA, ANTONIO A	
		ART UNIT	PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/748,953	RICE, MARY ROSE
	Examiner Antonio A. Caschera	Art Unit 2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 July 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6,8,10 and 12-15 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6,8,10 and 12-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 November 2005 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Objections

1. Claim 15 is objected to because of the following informalities:
 - The phrase, “paint sample cards” found throughout the claims should be changed to “physical paint sample cards” to be consistent throughout the claim language (see lines 1-2 of claim 15).

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8, 10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spangler (U.S. Patent 6,270,123 B1), Lodwick (U.S. Patent 2,203,167) and further in view of Wright et al. (U.S. Pub 2004/0046802 A1).

In reference to claim 1, Spangler discloses a method for displaying paint color samples in a two-dimensional physical display unit (see columns 3-4, lines 66-3, column 4, lines 42-48, column 1, lines 12-20 and Figure 11), comprising:

Art Unit: 2628

selecting a first plurality of paint colors (see column 6, lines 55-61 wherein Spangler discloses selecting an arbitrary starting point in the color spectrum for selecting colors to arrange the colors of the visible color spectrum);

placing the selected plurality of paint colors on a first plurality of physical paint color sample cards, *with one color on each physical sample card* (see columns 7-8, lines 31-6 wherein Spangler discloses placing selected colors on a first, second, third and fourth plurality of physical color strips);

arranging the first plurality of physical paint sample cards on the display unit according to hue and *chroma* so that the paint color on the physical paint sample cards gradually vary in hue, in a first direction, *and gradually vary in chroma, in a second direction*; (see column 8, lines 7-29, column 4, lines 29-65 wherein Spangler discloses the first, second, third and fourth color strips to be arranged on the display rack so that colors vary gradually in hue in a first direction and gradually in lightness in a second direction. Note, Spangler discloses that rows are arranged according to hue and columns of strips on the display rack are arranged according to lightness (see column 8, lines 7-29)) and

arranging one or more color combination physical paint sample cards adjacent to the first plurality of physical paint sample cards, so that each color combination paint sample card includes the color of one of the first plurality of physical paint sample cards it is adjacent to and one or more complementary colors.

Spangler does not explicitly disclose placing one point color on each physical sample card however Lodwick does. Lodwick discloses a method for identifying color harmony which enables a user to reproduce accurately and quickly a desired color (see page, 1, left column, lines

Art Unit: 2628

1-5). Lodwick discloses the invention to comprise of a rigid base having directories mounted thereon, the directories made up of a plurality of tone cards with each tone card having exactly one color (see page 1, right column, lines 12-32 and Figure 5). Lodwick also discloses arranging a complementary color tone card along with an identification page adjacent to the tone cards so that each identification page includes the tone color its adjacent to and a complementary color (see page 1, right color, lines 24-46 and #18, 16, 17, 19 of Figure 1. Note, #19 includes the selected color, under Hue – 53 and its complement Hue – 23 which can be seen on tone card #16 and its associated identification page #18). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the color tone card displaying techniques of Lodwick with the color strip displaying and selection techniques of Spangler in order to create a color selection system that not only displays colors to a user but that accurately names the colors and gives mixing formulas and all complementary colors to a particular selected color (see page 1, left column, lines 11-18 of Lodwick). Neither Spangler nor Lodwick disclose arranging colors in a display so that they vary gradually in hue in a first direction and chroma in a second direction. Wright et al. discloses a color selection system by which the user of the system may generate a palette of colors for use in a color coordinated project (see paragraph 1). Wright et al. discloses the system to comprise of a graphical user interface having a first display area for displaying colors available for selection and a second area for displaying selected colors forming a palette of colors (see paragraph 8, lines 1-4). Wright et al. discloses the system to implement a color map display mode where a palette is displayed on the display according to hue in a one direction (horizontally) and chroma in another direction (vertically) (see paragraph 45, lines 1-9, paragraph 40, paragraph 48 and #110, 150, 152 of Figure 3). It

Art Unit: 2628

would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the harmonious color displaying techniques of Wright et al. with the color tone card displaying techniques of Lodwick and color strip displaying and selection techniques of Spangler in order to provide a user of the display selection system a more intuitive, easier way to select colors by organizing colors in such a way that they are harmonious to one another, showing closely related colors (see paragraphs, 8, 9 and 29 of Wright et al.) as they are perceived by the human eye.

In reference to claim 2, Spangler, Lodwick and Wright et al. disclose all of the claim limitations as applied to claim 1 above in addition, Spangler discloses arranging the colors into categories pastel, tint, deep and accent bases (see columns 9-10, lines 5-17). Wright et al. explicitly discloses arranging the colors of the palette into categories, principal, intermediate and finer hues, based on hue angles (or hue colors) (see paragraph 40, last 15 lines and #150 of Figure 3, column headers start with R=Red, to Y=yellow, to G=green etc). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the harmonious color displaying techniques of Wright et al. with the color tone card displaying techniques of Lodwick and color strip displaying and selection techniques of Spangler in order to provide a user of the display selection system a more intuitive, easier way to select colors by organizing colors in such a way that they are harmonious to one other showing closely related colors (see paragraphs, 8, 9 and 29 of Wright et al.) as they are perceived by the human eye.

In reference to claim 3, Spangler, Lodwick and Wright et al. disclose all of the claim limitations as applied to claim 2 above. Note, the Office interprets that Spangler inherently allows for adding physical strips to a category based on human input since the display strips are

Art Unit: 2628

placed in a display rack categorized in bases (see column 7, lines 31-41, columns 9-10, 5-17) and are initially stocked and maintained (see column 8, lines 30-47).

In reference to claim 4, Spangler, Lodwick and Wright et al. disclose all of the claim limitations as applied to claim 2 above. Wright et al. explicitly discloses arranging the colors of the palette into categories, principal, intermediate and finer hues, based on hue angles (or hue colors) (see paragraph 40, last 15 lines and #150 of Figure 3, column headers start with R=Red, to Y=yellow, to G=green etc). Wright et al. discloses the colors arranged in each hue angle by decreasing chroma starting from the top of the column heading towards the bottom (see paragraph 48 and Figure 3, #152, 1/16 to 1/0). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the harmonious color displaying techniques of Wright et al. with the color tone card displaying techniques of Lodwick and color strip displaying and selection techniques of Spangler in order to provide a user of the display selection system a more intuitive, easier way to select colors by organizing colors in such a way that they are harmonious to one another, showing closely related colors (see paragraphs, 8, 9 and 29 of Wright et al.) as they are perceived by the human eye.

In reference to claim 5, Spangler, Lodwick and Wright et al. disclose all of the claim limitations as applied to claim 1 above. Note, Spangler discloses that rows are arranged according to hue and columns of strips on the display rack are arranged according to lightness (see column 8, lines 7-29) and that the color strips inherently comprise of “tints” of white color since the “sorting” by lightness of color strips is performed column by column for all colors of the visible spectrum (see column 6, lines 55-61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the harmonious color displaying

Art Unit: 2628

techniques of Wright et al. with the color tone card displaying techniques of Lodwick and color strip displaying and selection techniques of Spangler in order to provide a user of the display selection system a more intuitive, easier way to select colors by organizing colors in such a way that they are harmonious to one another, showing closely related colors (see paragraphs, 8, 9 and 29 of Wright et al.) as they are perceived by the human eye.

In reference to claims 6, 10 and 14, Spangler, Lodwick and Wright et al. disclose all of the claim limitations as applied to claims 1, 8 and 12 respectively. Although Spangler discloses each physical color strip to comprise of a plurality of adjacent color fields varying in hue (see column 7, lines 42-50), Spangler, Lodwick nor Wright et al. explicitly disclose each sample card having two or more paint colors having similar hue but varying or different chromatic values. At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the display rack and color selection techniques of Spangler utilizing color strips composed of colors having similar hue but varying chroma. Applicant has not disclosed that specifically implementing physical color cards comprising colors of similar hue and varying chroma provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the plurality of colors per strip, arranged with varying hue and lightness, display and selection techniques of Spangler because the exact content of each paint card of Applicant's claims is seen as a matter decided upon by the inventor and to which best suits the Application at hand. In other words, some inventors may perceive colors varying closely in chroma as a better facilitation for user selection than colors varying closer in hue and therefore may choose to arrange colors by hue instead of chroma. Therefore, it would have been obvious

Art Unit: 2628

to one of ordinary skill in this art to modify Spangler to obtain the invention as specified in claims 6, 10 and 14.

In reference to claim 8, Spangler discloses a paint sample display unit comprising (see columns 3-4, lines 66-3):

a two-dimensional paint sample card display unit adapted for displaying physical color sample cards in a plurality of columns and rows (see column 4, lines 42-48, column 1, lines 12-20 and Figure 11);

a first plurality of physical paint sample cards, each physical paint sample card carrying one or more paint colors of similar hue, the first plurality of physical paint sample cards with similar hue being arranged in a first column of the paint sample card display unit, *from most chromatic to least chromatic*; (see column 7, lines 42-50 wherein Spangler discloses each physical color strip to comprise of a plurality of adjacent color fields varying in hue. Spangler also discloses arranging the first, second third and fourth color strips on the display rack according to hue and lightness (see column 8, lines 7-29 and Figure 8).)

a second plurality of physical paint sample cards arranged within the first column of the first plurality of physical paint sample cards, *each of the second plurality of physical paint sample cards including a white paint color having one or more white colors of similar tint as the color of the physical paint sample card in the first plurality of sample cards that it is adjacent to*; and (see column 8, lines 7-29, column 4, lines 29-65 wherein Spangler discloses the first, second, third and fourth color strips to be arranged on the display rack so that colors vary gradually in hue in a first direction and gradually in lightness in a second direction. Further, Spangler discloses that rows are arranged according to hue and columns of strips on the display rack are

Art Unit: 2628

arranged according to lightness (see column 8, lines 7-29) and that the color strips inherently comprise of “tints” of white color since the “sorting” by lightness of color strips is performed column by column for all colors of the visible spectrum (see column 6, lines 55-61).)

one or more physical color coordination sample cards arranged adjacent to the first plurality of physical paint sample cards, each physical color coordination sample card including one of the colors in an adjacent first plurality of physical paint sample cards and one or more complementary colors.

Spangler does not explicitly disclose one or more physical color coordinate sample cards arranged adjacent to a first paint sample card however Lodwick does. Lodwick discloses a method for identifying color harmony which enables a user to reproduce accurately and quickly a desired color (see page, 1, left column, lines 1-5). Lodwick discloses the invention to comprise of a rigid base having directories mounted thereon, the directories made up of a plurality of tone cards with each tone card having exactly one color (see page 1, right column, lines 12-32 and Figure 5). Lodwick also discloses arranging a complementary color tone card along with an identification page adjacent to the tone cards so that each identification page includes the tone color its adjacent to and a complementary color (see page 1, right color, lines 24-46 and #18, 16, 17, 19 of Figure 1. Note, #19 includes the selected color, under Hue – 53 and its complement Hue – 23 which can be seen on tone card #16 and its associated identification page #18). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the color tone card displaying techniques of Lodwick with the color strip displaying and selection techniques of Spangler in order to create a color selection system that not only displays colors to a user but that accurately names the colors and gives mixing formulas and all

Art Unit: 2628

complementary colors to a particular selected color (see page 1, left column, lines 11-18 of Lodwick). Neither Spangler nor Lodwick disclose arranging colors in a display so that they vary gradually in hue in a first direction and chroma in a column direction, from most chromatic to least chromatic. Wright et al. discloses a color selection system by which the user of the system may generate a palette of colors for use in a color coordinated project (see paragraph 1). Wright et al. discloses the system to comprise of a graphical user interface having a first display area for displaying colors available for selection and a second area for displaying selected colors forming a palette of colors (see paragraph 8, lines 1-4). Wright et al. discloses the system to implement a color map display mode where a palette is displayed on the display according to hue in a one direction (horizontally) and chroma in another direction (vertically) (see paragraph 45, lines 1-9, paragraph 40, paragraph 48 and #110, 150, 152 of Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the harmonious color displaying techniques of Wright et al. with the color tone card displaying techniques of Lodwick and color strip displaying and selection techniques of Spangler in order to provide a user of the display selection system a more intuitive, easier way to select colors by organizing colors in such a way that they are harmonious to one another, showing closely related colors (see paragraphs, 8, 9 and 29 of Wright et al.) as they are perceived by the human eye.

In reference to claim 12, Spangler discloses a paint color display system to assist customers in the selection of paint colors (see columns 3-4, lines 66-3):, comprising:

a physical display unit having a two-dimensional array structure to display physical paint color sample cards (see column 4, lines 42-48, column 1, lines 12-20 and Figure 11);

Art Unit: 2628

a first plurality of physical paint color sample cards arranged in a first hue region, the first plurality of physical paint color sample cards including hue colors closely related to, or the same as, each other hue in the first hue region, the physical color sample cards in each of the hue regions arranged according to either ascending or descending hue value in a first dimension, *and either ascending or descending chromatic value in a second dimension* of the display unit (see column 7, lines 42-50 wherein Spangler discloses each physical color strip to comprise of a plurality of adjacent color fields varying in hue. Spangler also discloses arranging the first, second third and fourth color strips on the display rack according to hue and lightness (see column 8, lines 7-29 and Figure 8).);

a plurality of physical white paint color sample cards having a tint corresponding to the hue of the first hue region located within the first hue region (see column 8, lines 7-29, column 4, lines 29-65 wherein Spangler discloses the first, second, third and fourth color strips to be arranged on the display rack so that colors vary gradually in hue in a first direction and gradually in lightness in a second direction. Further, Spangler discloses that rows are arranged according to hue and columns of strips on the display rack are arranged according to lightness (see column 8, lines 7-29) and that the color strips inherently comprise of “tints” of white color since the “sorting” by lightness of color strips is performed column by column for all colors of the visible spectrum (see column 6, lines 55-61).); and

one or more physical color coordination sample cards arranged adjacent to the first plurality of physical paint sample cards, each physical color coordination sample card including one of the colors in an adjacent first plurality of physical paint sample cards and one or more complementary colors.

Spangler does not explicitly disclose one or more physical color coordinate sample cards arranged adjacent to a first paint sample card however Lodwick does. Lodwick discloses a method for identifying color harmony which enables a user to reproduce accurately and quickly a desired color (see page, 1, left column, lines 1-5). Lodwick discloses the invention to comprise of a rigid base having directories mounted thereon, the directories made up of a plurality of tone cards with each tone card having exactly one color (see page 1, right column, lines 12-32 and Figure 5). Lodwick also discloses arranging a complementary color tone card along with an identification page adjacent to the tone cards so that each identification page includes the tone color its adjacent to and a complementary color (see page 1, right color, lines 24-46 and #18, 16, 17, 19 of Figure 1. Note, #19 includes the selected color, under Hue – 53 and its complement Hue – 23 which can be seen on tone card #16 and its associated identification page #18). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the color tone card displaying techniques of Lodwick with the color strip displaying and selection techniques of Spangler in order to create a color selection system that not only displays colors to a user but that accurately names the colors and gives mixing formulas and all complementary colors to a particular selected color (see page 1, left column, lines 11-18 of Lodwick). Neither Spangler nor Lodwick disclose arranging colors in a display so that they vary gradually in hue in a first direction and chroma in a column direction, from most chromatic to least chromatic. Wright et al. discloses a color selection system by which the user of the system may generate a palette of colors for use in a color coordinated project (see paragraph 1). Wright et al. discloses the system to comprise of a graphical user interface having a first display area for displaying colors available for selection and a second area for displaying selected colors forming

Art Unit: 2628

a palette of colors (see paragraph 8, lines 1-4). Wright et al. discloses the system to implement a color map display mode where a palette is displayed on the display according to hue in a one direction (horizontally) and chroma in another direction (vertically) (see paragraph 45, lines 1-9, paragraph 40, paragraph 48 and #110, 150, 152 of Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the harmonious color displaying techniques of Wright et al. with the color tone card displaying techniques of Lodwick and color strip displaying and selection techniques of Spangler in order to provide a user of the display selection system a more intuitive, easier way to select colors by organizing colors in such a way that they are harmonious to one another, showing closely related colors (see paragraphs, 8, 9 and 29 of Wright et al.) as they are perceived by the human eye.

In reference to claim 13, Spangler, Lodwick and Wright et al. disclose all of the claim limitations as applied to claim 12 above. Spangler discloses each physical color strip to comprise of a plurality of adjacent color fields varying in hue (see column 7, lines 42-50). Spangler discloses selecting an arbitrary starting point in the color spectrum for selecting colors to arrange the colors of the visible color spectrum (see column 6, lines 55-61). Wright et al. discloses the system to implement a color map display mode where a palette is displayed on the display according to hue in a one direction (horizontally) and chroma in another direction (vertically) (see paragraph 45, lines 1-9, paragraph 40, paragraph 48 and #110, 150, 152 of Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the harmonious color displaying techniques of Wright et al. with the color tone card displaying techniques of Lodwick and color strip displaying and selection techniques of Spangler in order to provide a user of the display selection system a more intuitive,

easier way to select colors by organizing colors in such a way that they are harmonious to one another showing closely related colors (see paragraphs, 8, 9 and 29 of Wright et al.) as they are perceived by the human eye.

In reference to claim 15, Spangler, Lodwick and Wright et al. disclose all of the claim limitations as applied to claim 12 above. Spangler discloses each physical color strip to comprise of a plurality of adjacent color fields varying in hue (see column 7, lines 42-50). Wright et al. explicitly discloses arranging the colors of the palette into categories, principal, intermediate and finer hues, based on hue angles (or hue colors) (see paragraph 40, last 15 lines and #150 of Figure 3, column headers start with R=Red, to Y=yellow, to G=green etc). Note, the Office interprets the combination of Spangler, Lodwick and Wright et al. to disclose the claim limitations of claim 15 noting that the hue ranges of Wright et al. (R, Y, YR, G etc) do not overlap one another. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the harmonious color displaying techniques of Wright et al. with the color tone card displaying techniques of Lodwick and color strip displaying and selection techniques of Spangler in order to provide a user of the display selection system a more intuitive, easier way to select colors by organizing colors in such a way that they are harmonious to one another showing closely related colors (see paragraphs, 8, 9 and 29 of Wright et al.) as they are perceived by the human eye.

Response to Arguments

3. The cancellation of claims 7, 11 and 16-44 is noted.

Art Unit: 2628

4. Applicant's arguments, see Applicant's Remarks filed 07/06/07, with respect to the objection of claims 1-6, 8, 10 and 12-14 have been fully considered and are persuasive. The objection of claims 1-6, 8, 10 and 12-14 has been withdrawn. Note, claim 15 still contains minor informalities which must be corrected (see above objection).

5. Applicant's arguments with respect to claims 1-6, 8, 10 and 12-15 have been considered but are moot in view of the new ground(s) of rejection.

References Cited

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. Jacobson (U.S. Patent 2,409,285)
- Jacobson discloses a color chart system comprising a plurality of color chips arranged in particular manner by hue and lightness.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781. The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:00 AM and 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung, can be reached at (571) 272-7794.

Art Unit: 2628

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

571-273-8300 (Central Fax)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

aac
ASL
7/26/07

Antonio Caschera
Patent Examiner



KEE M. TUNG
SUPERVISORY PATENT EXAMINER